

APPEAL NO. 021270
FILED JUNE 25, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 11, 2002. The hearing officer determined that as a result of the _____, compensable injury, the appellant (claimant) had disability from _____, through June 6, 2001. On appeal, the claimant contends that this determination is against the great weight and preponderance of the evidence insofar as an end to disability was found on June 6, 2001. The respondent (carrier) urges affirmance

DECISION

Affirmed.

Whether the claimant had disability is a factual question for the hearing officer to resolve. Section 410.202(a) provides that the contested case hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. When reviewing a hearing officer's decision for factual sufficiency of the evidence we should reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Applying this standard, we find no ground to reverse the decision of the hearing officer.

Furthermore, we do not agree with the claimant's position that the hearing officer misunderstood the test for disability by commenting that the claimant had some ability to work during the alleged period of disability. We do not interpret this comment to mean that the hearing officer believes that by having some ability to work, a claimant is prevented from having disability as defined by Section 401.011(16). Rather, the hearing officer appears to be articulating why she believed that the injury was no longer a factor in the inability to obtain employment.

The decision and order of the hearing office are affirmed.

The true corporate name of the insurance carrier is **EMPLOYERS MUTUAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**HOWARD ORLA DUGGER
1702 NORTH COLLINS BLVD., SUITE 200
RICHARDSON, TEXAS 75080.**

Susan M. Kelley
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Robert W. Potts
Appeals Judge